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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 1/16/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

4-11-01 5-11-01 6-11-01 7-11-01
4-10-01 5-10-01 6-10-01 7-10-01
4-4-01 5-4-01 6-4-01 7-4-01
3-28-01
3-11-01

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Office Action Summary

Application No.

09/237,687

Applicant(s)

Helberger

Examiner

Christopher S. Kim

Group Art Unit

3752



☒ Responsive to communication(s) filed on 17 Oct 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

- ☒ Claim(s) 1-5, 7, 9, and 33-35 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☒ Claim(s) 35 is/are allowed.
- ☒ Claim(s) 1-5, 7, 9, 33, and 34 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☒ The proposed drawing correction, filed on 17 Oct 2000 is ☒ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Response to Amendment

1. Amendment filed October 17, 2000 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

3. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on October 17, 2000 have been approved.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 4, 5 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 2 and 5 recite "stop member". It is uncertain whether it is in reference to the ear in claim 1 or another stop member.

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Claim 4 recites the limitation "said limit ear". There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 4, "said limit ear and said slot both the longitudinal movement and restrict rotational movement of said valve body within said sleeve" is unclear.

Claim 34 recites "and is disposed thereon for limiting the longitudinal movement of said valve body within said sleeve between said open and closed position." It is uncertain what it is in reference to.

Claim Rejections - 35 USC § 103

6. Claims 1-5, 7, 9 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter et al. in view of Perlmuter.

Porter et al. disclose a closure A comprising: a cap member 10; a sleeve 24; a valve body 32; a stop member 38, 46; a central post 22; a central cavity 52; an aperture 48; an open inner end 50. Porter et al. disclose, in column 1, lines 15-33 and in column 2, lines 57-65, the resiliency and elasticity of the cap member and the valve body for joining the two members. The same would apply when pulled apart. Porter et al. does not disclose slots and ears. Perlmuter discloses an ear/stop member 41 seated within longitudinal slots between arms 19. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have incorporated the longitudinal slots and pair of stop members of Perlmuter to the device of Porter et al. to selectively lock the valve.

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Allowable Subject Matter

7. Claim 35 is allowed.
8. Claim 34 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

9. Applicant's arguments filed October 17, 2000 have been fully considered but they are not persuasive.

In response to applicant's argument that the teachings of Perlmutter would render Porter et al. non-functional, Perlmutter teaches longitudinal slots and stop member 41 which allow the valve body to lock in a closed position by rotating the valve body. Perlmutter does not teach a leaking valve. Porter et al. teaches a valve which moves longitudinally to open and close. The valve body of Porter et al. allows for rotation but restricting the rotation to a limited arc, as a result of incorporating the teachings of Perlmutter, would not render the device non-functional.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for this Group is (703) 308-7766.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

CK

January 5, 2001

David A. Scherbel
Supervisory Patent Examiner
Group 3700